

Mark C. Manning  
Mark C. Manning, P.C.  
1000 O'Malley Road, Ste. 202  
Anchorage, Alaska 99515  
(907) 278-9794 Fax: 278-1169  
manning@alaska.net  
Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

BRISTOL BAY DEVELOPMENT FUND, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
THORS HAMMER, official number 1217683, its	)	
mast, bowsprit, boat, anchors, cables, chains, rigging,	)	
tackle, apparel, furniture, freights and all additions,	)	
improvements, and all other necessities thereunto	)	
appertaining and belonging, including but not	)	
limited to Fishing Rights, <i>in rem</i> , and VIKING	)	
CONSTRUCTORS, LLC, <i>in personam</i> ,	)	COMPLAINT <i>IN REM</i>
	)	AND <i>IN PERSONAM</i>
Defendants.	)	
_____	)	Case no. 3:16-cv-

COMPLAINT

Plaintiff BRISTOL BAY DEVELOPMENT FUND, LLC alleges as follows:

1. This action is brought pursuant to Supplemental Rule C for Admiralty or Maritime Claims, is within the admiralty and maritime jurisdiction of this Court, pursuant to 28 U.S.C. §1333 and 46 U.S.C. § 31325, *et seq.*, and is an admiralty and maritime claim within the meaning of Federal Rule of Civil Procedure 9(h).
2. Plaintiff is and at all times relevant has been a limited liability company organized under the laws of Alaska, having its principal place of business in Anchorage.
3. The *in rem* defendant, THORS HAMMER, official number 1217683, is a vessel documented under the laws of the United States of America. The vessel is, and at all times relevant has been, owned by VIKING CONSTRUCTORS, LLC. It is a 116.7 foot long, 29 foot wide

commercial vessel now within the jurisdiction of this Court, lying ashore at Egegik, Alaska.

4. *In personam* defendant VIKING CONSTRUCTORS, LLC, is a limited liability company organized under the laws of Alaska. Kenneth K. Bozinoff is an Alaska resident and at all times relevant has been the sole member of VIKING CONSTRUCTORS, LLC.

5. On or about April 7, 2015, VIKING CONSTRUCTORS, LLC borrowed \$325,000.00 from BRISTOL BAY DEVELOPMENT FUND, LLC. To evidence this debt and related terms, VIKING CONSTRUCTORS, LLC executed a Note in the amount of \$325,000.00 in favor of BRISTOL BAY DEVELOPMENT FUND, LLC. A true and correct copy of the Note is attached hereto as Exhibit 1. The Note obligated VIKING CONSTRUCTORS, LLC to pay the principal amount of \$325,000.00, with interest, in accord with the terms that appear in the Note and attached Schedules A and B.

6. To secure the debt evidenced by the Note, VIKING CONSTRUCTORS, LLC executed a Preferred Ship Mortgage against defendant THORS HAMMER. A true and correct copy of the mortgage is attached hereto as Exhibit 2. The mortgage was properly recorded with the Coast Guard Vessel Documentation Center and endorsed on the vessel's documents, and is a valid and subsisting preferred mortgage. The mortgage covers the whole of the Vessel and its mast, bowsprit, boat, anchors, cables, chains, rigging, tackle, apparel, furniture, freights and all additions, improvements, and all other necessities thereunto appertaining and belonging, including but not limited to Fishing Rights held at the time the mortgage was instituted as well as those that might in the future be held or inured. The mortgage provides that "Fishing Rights" means all rights or privileges to harvest, process, transport and or sell fish, sable-fishes, cod, shellfish and fishery products, whether now existing or hereafter arising, whether or not such rights or privileges are based on prior catch histories, vessel, capacities, ownership arrangements, community investments, or other factors. "Fishing rights" includes but is not limited to all rights, quotas, and privileges established pursuant to limited access or limited entry, moratorium rights, or Limited License Program (LLP). In accord with the provisions of the Note and mortgage, VIKING CONSTRUCTORS, LLC's default on the Note would entitle Plaintiff to foreclose on the mortgage on the vessel.

7. The Note payment schedule provided for payments of \$69,239.59 on July 15 and

*Bristol Bay Development Fund v. THORS  
HAMMER et al.*  
Case no. 3:16-cv-

November 1, 2015, as well as on future dates. The Note also provided that principal would bear interest from April 7, 2015, at 15.0% per annum until paid. Only one payment of \$10,000.00 as been made to date, applied on August 19, 2015, at which time accrued interest was \$16,561.44. The Note provides that payments are to be applied first to interest then to principal. VIKING CONSTRUCTORS, LLC, is in default of payment payments of \$69,239.59, due in July and November 2015 as provided in Schedule A. The Note provides further that if a payment default is not cured within 30 days after the due date of the payment, the entire principal sum and accrued interest shall at once become due and payable at the option of Bristol Bay Development Fund. The Fund has opted to accelerate the debt.

8. The Note also provides for a late payment fee of \$1,500.00 for each late payment, the late payment fee also to bear interest at 15% per annum.

9. Presently due and owing on the Note are \$325,000.00 in principle, \$3,000.00 in two late payment penalties, \$ 30,735.80 in accrued interest on principal as of February 16, 2016, after application of the \$10,000.00 payment, and accrued interest on the late payment penalties. Interest continues to accrue on the \$325,000.00 principal and \$3,000.00 in late payment penalties at the rate of 15% per annum.

10. The Note provides that VIKING CONSTRUCTORS, LLC is obligated to pay BRISTOL BAY DEVELOPMENT FUND, LLC's costs and disbursements provided by statute, and actual, reasonable attorney's fees incurred in this action.

WHEREFORE, Plaintiff prays as follows:

1. that an *in rem* warrant of arrest issue, directing the United States Marshal to arrest the whole of the vessel THORS HAMMER, o.n. 1217683, and all of its mast, bowsprit, boat, anchors, cables, chains, rigging, tackle, apparel, furniture, freights and all additions, improvements, and all other necessities thereunto appertaining and belonging, including but not limited to Fishing Rights held at the time the mortgage was instituted as well as those that might in the future be held or inured, and to hold the same pending further order of this Court;

2. that Plaintiff be awarded judgment *in rem*, declaring that the Preferred Ship Mortgage created a valid and subsisting maritime lien in favor of Plaintiff against THORS HAMMER, that is

*Bristol Bay Development Fund v. THORS  
HAMMER et al.*

Case no. 3:16-cv-



prior and superior to all other liens, claims, and encumbrances whatsoever against the Vessel, and foreclosing Plaintiff's Mortgage lien against the Vessel and all of its mast, bowsprit, cables, chains, rigging, equipment, gear, furniture, apparel, fixtures, tackle, boat, machinery, anchors, freights, and fishing rights held at the time the mortgage was instituted as well as those that might in the future be held or inured, and all other additions, improvements and necessities appertaining and belonging, whether on board or not, as well as all additions, improvements and replacements thereafter made, for all amounts due on the debt evidenced by the Note and Preferred Ship Mortgage, including without limitation, the \$325,000.00 principal balance, the \$3,000.00 in late payment charges, interest accrued at time of judgment, accrued and accruing interest in excess of \$ 30,735.80, the exact amount be proven at time of trial and judgment, any future late payment charges, costs of collection, reasonable attorney fees and other expenses allowed under the Note and the Mortgage, and at law;

3. that the court issue an order directing the U.S. Marshal to sell the Vessel in accordance with law, and that the sale proceeds be held in the Registry of this Court to be applied first to satisfy Plaintiff's *in rem* judgment;

4. that Plaintiff be allowed to credit bid at the Marshal's sale the amount of debt under the Mortgage in lieu of cash;

5. that Plaintiff be awarded a deficiency judgment *in personam* against VIKING CONSTRUCTORS, LLC, for all amounts due on the debt evidenced by the Note and Preferred Ship Mortgage as alleged in the Complaint, including without limitation, principal, interest, late charges, insurance premium, marine survey costs, costs of collection, including but not limited to costs of arrest and custody, reasonable attorney fees and other expenses allowed under the Note and the Mortgage, and at law; and

6. that Plaintiff be awarded such other and further relief as the Court may deem just and proper in the premises.

/

/

/

*Bristol Bay Development Fund v. THORS  
HAMMER et al.*

Case no. 3:16-cv-

DATED this 22d th day of February, 2016, at Anchorage, Alaska.

s/ Mark C. Manning  
Mark C. Manning  
MARK C. MANNING, P.C.  
Counsel for Plaintiff  
431 West 7<sup>th</sup> Avenue, Ste. 204  
Anchorage, AK 99501  
Phone: (907) 278-9794  
Fax: (907) 278-1169  
manning@alaska.net  
ABA No. 8110066

**VERIFICATION**  
28 USC §1746

I am the manager for BRISTOL BAY DEVELOPMENT FUND, LLC, plaintiff in this action. The facts alleged in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. The sources of my information and the grounds for my belief are the files of BRISTOL BAY DEVELOPMENT FUND, LLC, copies of abstracts of title of the vessel, and information furnished me by BRISTOL BAY DEVELOPMENT FUND, LLC personnel and legal counsel. I am authorized to make this verification on Plaintiff's behalf.

2/22/2016

Date

Cameron Poindexter

Cameron Poindexter

*Bristol Bay Development Fund v. THORS  
HAMMER et al.*  
Case no. 3:16-cv-